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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/525,688
Filing Date: July 27, 2005
Appellant(s): DAVID ET AL.

MAILED

FEB 06 2008

Technology Center 2100

Manu J. Tejawani
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed on November 16, 2007 appealing from the Office action mailed May 16, 2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

Applicant's Admission of Prior Art (AAPA) [Application's Specification, paragraphs 0003-0011; Fig. 1];

6,519,716	Branstad	2-2003
2001/0052067	Klein	12-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1 and 4-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of prior art [AAPA] and Branstad, U.S. Patent No. 6,519,716.

With respect to claim 1, AAPA teaches a method for initializing a programmable system having at least one processor element, register and internal and/or external modules [Fig. 1], the method comprising the steps of:

after turn-on or other event triggering a fresh start of the programmable system,
transferring initialization information for the processor element from an external or internal non-volatile storage medium (14) to an internal memory (11) coupled to a processor element under the control of a program stored in an instruction memory portion (9) coupled to the processor element, wherein the initialization information includes initialization data [Fig. 1; application's specification, paragraphs 0009-0010]; and

reading and transferring initialization data [application's specification, paragraph 0010] and further initializing the registers and modules under the control of the at least one processor element (8) of the programmable system [Fig. 1; application's specification, paragraphs 0009-1010].

AAPA does not explicitly teach that the initialization information includes initialization program which controls the initialization.

Branstad teaches a method for configuring a device by transferring initialization program, which controls the processor element to perform the initialization, from a non-volatile storage medium to an internal memory [col. 5, lines 19-24].

It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of AAPA and Branstad because they both teach method for initializing a peripheral device.

With respect to claims 4-6, one of ordinary skill in the art would have recognized that the initialization data is obviously altered and calculated by the processor element in order for initializing the device using the stored initialization data.

With respect to claims 7-10, these claims are directed to method steps for initializing a programmable system of claim 1. As stated above, AAPA and Branstad teach the invention substantially as set forth in claim 1. At the time of the invention, one of ordinary skill in the art would have readily recognized that AAPA and Branstad may obviously also teach the method steps of claim 1 as set forth in claims 7-10. As such, claims 7-10 are rejected under the same rationale with respect to claim 1.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over applicant's admission of prior art [AAPA], Branstad, U.S. Patent No. 6,519,716 and Klein, U.S. Pub. No. 2001/0052067.

With respect to claims 2 and 3, both AAPA and Branstad do not explicitly teach the error checking of the initialization program. Klein teaches the validity of the initialization program [p. 2, paragraphs 0009-0010]. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the teachings of AAPA-Branstad and Klein because it would increase the reliability of the system.

(10) Response to Argument

In the Appeal Brief, Appellant argued in substances that: (1) AAPA does not disclose (a) an internal memory coupled to the processor element storing initialization information for the programmable system; (b) the initialization information, which is stored at first in an external or internal non volatile storage medium consisting of initialization data and initialization program; (c) a program stored in an instruction memory, which controls the transfer of the initialization information into the instruction memory; and (d) the initialization program (which was transferred at first into the internal memory) that controls the initialization of the modules and register; and (2) Branstad does not teach (a) method or process for initialization; and (b) retrieval of initialization code for execution is controlled by a program.

With respect to point (1) (a), one of ordinary skill in the art would have recognized that internal RAM, i.e. RAM 11 is used for codes execution. Therefore, the information stored in an external EEPROM 14 is first transferred into the ASIC and then loaded into internal RAM, i.e. RAM 11 for execution. AAPA stated “. . . information is read from the EEPROM . . . and is transferred to the *appropriate registers* in the ASIC’s PCI/USB core . . .” (emphasis added) [application’s specification, paragraph 0011]. Therefore, the RAM 11 and/or “appropriate registers” is the internal memory as claimed.

With respect to point (1) (b), AAPA discloses the initialization information (identification features and serial numbers) [application’s specification, lines 4-5 of paragraph 0010], which is stored at first in an external or internal non-volatile memory including initialization data (product ID, vendor ID, etc.) [application’s specification, lines 6-10 of paragraph 0010].

“ . . . a small *EEPROM* (*Electrically Erasable Programmable Read Only Memory*) on the device's board and connecting it to the ASIC usually via a serial bus. The EEPROM stores identification features and serial numbers. In the case of a PCI/Card bus, for example, the identification features are understood to mean the *product ID*, *vendor ID*, *subsystem ID* and *subsystem vendor ID* as a revision identifier and device class. An example of a serial number is the *MAC-ID* in the case of Ethernet-network cards.” (emphasis added) [application's specification, paragraph 0010]

“ . . . information is read from the EEPROM . . . and is transferred to the appropriate registers . . . when the device is turned on by the end consumer.” (emphasis added) [application's specification, paragraph 0011].

Examiner agrees with appellant that the initialization information taught by AAPA does not include initialization program. However, Branstad was relied upon to teach the initialization program feature.

With respect to point (1) (c), AAPA discloses that the system includes an instruction memory for storing instruction program (element 9) [Fig. 1; paragraph 0043]. Though AAPA does not explicitly state that the transfer of the initialization information is controlled by a program. However, one of ordinary skill in the art would have recognized that any movement of data from one point to another must be controlled by an execution of instruction(s) (i.e. move instruction). Therefore, the transfer of the initialization information is, inherently, controlled by a program (instruction(s)). As shown in Fig. 1, instruction memory 9 is the only instruction memory within the system. Therefore, the "program" (instruction used to control the transfer) is stored in the instruction memory 9.

With respect to point (1) (d), examiner agrees with appellant that the initialization information taught by AAPA does not include initialization program. However, Branstad was relied upon to teach the initialization program feature.

With respect to point (2) (a), examiner respectfully disagrees with appellant. Branstad stated:

“(t)he invention is generally related to the *initialization of an electronic device* such as an adaptor or other electronically controlled component in a data processing system, and in particular, to control over the retrieval of initialization code for execution by such an electronic device during initialization.” (emphasis added) [col. 1, lines 7-12].

“(s)tored within non-volatile memory 58 is initialization program code 62, which is retrieved by block 50 and executed by microcontroller 42 *to initialize the adaptor* to a known operational state.” (emphasis added) [col. 5, lines 19-23].

Therefore, Branstad teaches method or process for initialization as claimed.

With respect to point (2) (b), Branstad discloses that:

“... the memory control circuit further configured to thereafter *retrieve initialization program code* from the non-volatile memory ...” (emphasis added) [col. 10, lines 52-53].

“...comprising a *hardware definition program* that defines the circuit arrangement ...” (emphasis added) [col. 10, lines 56-57].

Therefore, in Branstad, the retrieval of initialization code for execution [col. 5, lines 19-23; col. 10, lines 52-53] is controlled by a program (hardware definition program) [col. 10, lines 56-57].

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner’s answer.

(12) Conclusion

For the above reasons, it is believed that the rejections should be sustained.

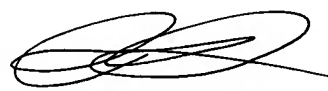
Respectfully submitted,



TUAN DU
PRIMARY EXAMINER

Tuan Du

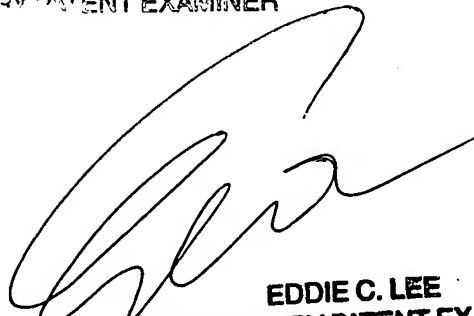
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